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4 DERRICK DESHAWN LYLES,  
5 Petitioner,  
6 v.  
7 KEVIN HIXSON,  
8 Respondent.  
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Case No. 22-cv-05623-WHO (PR)

**ORDER OF DISMISSAL**

10 Petitioner Derrick DeShawn Lyles has not filed a response to my prior order as  
11 required. (Dkt. No. 12.) Accordingly, this federal habeas action is DISMISSED (without  
12 prejudice) for failure to comply with my prior order and for failing to prosecute, *see*  
13 Federal Rule of Civil Procedure 41(b).

14 Because this dismissal is without prejudice, Lyles may move to reopen. Any such  
15 motion must (i) have the words MOTION TO REOPEN written on the first page; and  
16 (ii) provide a proper response to the prior order. A proper response informs me which of  
17 the following two choices he selects: (1) opt to dismiss the petition and return to state  
18 court to exhaust the unexhausted claim(s); or (2) opt to move to stay the petition, exhaust  
19 the unexhausted claim(s) in state court, and then move to amend the stayed petition to add  
20 the exhausted claim(s).

21 The Clerk shall enter judgment in favor of respondent, and close the file.

22 **IT IS SO ORDERED.**

23 **Dated:** March 15, 2023

  
24 WILLIAM H. ORRICK  
25 United States District Judge  
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